

REMARKS

Prior to addressing the substance of the Office Action, Applicants initially request the withdrawal of its finality. Specifically, the present Office Action followed a “RCE” submitted by Applicants on April 27, 2006 and is thus considered a first Office Action. A first Office Action, however, may only be made “final” if all claims would have been properly finally rejected on the *art of record* in the next Office action if they had been entered in the earlier application. *MPEP* § 706.07(b). In this case, a new search was conducted by the Examiner and resulted in a rejection of claim 28 based on a *new reference*, i.e., U.S. Patent No. 6,713,414. For at least this reason, Applicants respectfully request withdrawal of the finality of the Office Action.

Turning now to the Office Action itself, the drawings were initially objected to for failing to illustrate an “odor sorbent substrate positioned between the baffle and the core and wrapped around the absorbent core.” Fig. 6, however, shows a tissue wrap 37 that is *both* wrapped around an absorbent core 36 and positioned between a baffle 32 and the absorbent core 36. (¶ [0027]). As described in Example 4 of the present application (¶ [0049]), the present invention contemplates embodiments in which the tissue wrap 37 is the odor sorbent substrate. Thus, because the tissue wrap 37 may be synonymous with the odor sorbent substrate, the features referenced in the Office Action are already illustrated in the present application. For at least this reason, Applicants respectfully request withdrawal of the objection to the drawings.

Further, independent claim 17 was rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 3,939,838 to Fujinami, et al. in view of EP348978 to Tanzer, et al. Fujinami, et al. is directed to an article that includes a material for

deodorizing menstrual fluid. As correctly noted by the Examiner, however, Fujinami, et al. fails to disclose certain aspects of independent claim 17, including an odor sorbent substrate wrapped around an absorbent core.

Nevertheless, Tanzer, et al. was combined with Fujinami, et al. in an attempt to render obvious independent claim 17. Specifically, the Office Action asserted that the limitation of an odor sorbent substrate wrapped around an absorbent core was disclosed in Figs. 11 and 12 of Tanzer, et al. Fig. 11 of Tanzer, et al., for instance, illustrates an absorbent article 114 that contains an absorbent 116, a baffle 124 and a fluid-permeable cover 118. A deodorizing mixture 130 is positioned in "the cavities or spaces" between surfaces of the core and baffle. Applicants emphasize, however, that independent claim 17 requires an odor sorbent substrate "coated with a durable activated carbon ink" that is "positioned between the baffle and absorbent core and wrapped around the absorbent core." Contrary to the assertions in the Office Action, the deodorizing mixture 130 of Tanzer, et al. is *not* coated onto a substrate that is wrapped around the core and positioned between the baffle and the core, as required by claim 17.

In any event, Tanzer, et al. differs in several other respects from independent claim 17. For example, the particle mixture of Tanzer, et al. specifically requires "basic particles" as a substantial component of the deodorizing mixture. The "consisting essentially of" language of independent claim 17 excludes such a substantial presence of basic particles from the claimed activated carbon ink. Although recognizing this deficiency, the Examiner nevertheless asserted that it would have been obvious to remove the basic particles from the anhydrous mixture of Tanzer, et al. Applicants

respectfully disagree. Tanzer, et al. employs the basic particles in an amount between 25 wt.% and 99 wt.% of the deodorizing mixture. The reason that Tanzer, et al. requires such a high percentage of basic particles stems from one of its primary purposes – *to control both acidic and neutral odors*. If such a substantial particle component were removed from the deodorizing mixture of Tanzer, et al., however, this purpose would be completely vitiated.

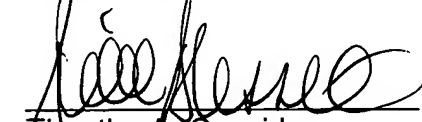
Applicants emphasize that the issue in conducting an analysis under 35 U.S.C. § 103(a) is not whether a theoretical re-design of a device is *possible* or that it might be *obvious to try* the modification. Instead, the issue hinges on whether the claimed invention *as a whole* would have been obvious. In this case, the Office Action parsed and dissected only certain portions of the references, and then used these dissected portions in a way that would require a substantial reconstruction of the references. Clearly, the Office Action is using the present application as a “blueprint” for selectively re-designing the reference, which is improper under 35 U.S.C. § 103. Thus, for at least the reasons set forth above, Applicants respectfully submit that one of ordinary skill in the art would not have found it obvious to modify the references in the manner suggested in the Office Action.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Chapman is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully requested,

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